the view that the submission of the counsel for the appellant should be rejected.

The appellant was convicted on both the principal and alternative charges. But having regard to the evidence, we think that the appellant ought to be more appropriately convicted on the charges in respect of document rather than of information. Hence we set aside the convictions on the principal charges, but confirmed those on the alternative charges.

As regards sentences we are of the opinion that we have to be consistent with the sentences imposed in *Lim Kit Siang* v. *Public Prosecutor*.[1] So we altered them to a fine of $1,000 on each of the first and fourth charges and a fine of $1,500 on each of the second and third charges and in default of each fine to a term of three months' imprisonment. We, however, wish to say here that the sentences imposed in these two cases should not be taken to be the standard for sentencing future offences under the Official Secrets Act. Lim Kit Siang's case and this case are the first two cases ever brought before the court under the Act. We consider that the practice of stealing secret documents and leaking the information contained in them to unauthorized persons is highly dangerous to the country, and we will certainly not hesitate in future to impose proper and adequate sentences, where circumstances merit such punishment.

*Appeal dismissed.*

Solicitors: *Rayner & Co.*

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## YAP YEOK LANG v. PUBLIC PROSECUTOR

**[F.C. (Suffian L.P., Ibrahim Manan F.J. & Hashim Yeop A. Sani J.) October 27, 1980]**

**[Kuala Lumpur — Federal Court Criminal Appeal No. 41 of 1977]**

*Criminal Law and Procedure — Security case — Statement made by accused to police officer — Whether statement voluntarily made — Prosecution must prove that it is voluntarily made — Essential (Security Cases) (Amendment) Regulations, 1975, reg. 21(1) — Internal Security Act, 1960, s. 57(1).*

In this case the appellant had been convicted of offences under the Internal Security Act, 1960, and sentenced to death. The main evidence on which the appellant was convicted was his oral statement to a police officer after his arrest. The learned trial judge admitted the statement without considering whether the statement was made voluntarily or not.

**Held:** (1) in a serious case like this which involved the death sentence the trial judge should have considered whether or not the statement was made voluntarily. As he had not done so the statement was not admissible in evidence;

(2) the rest of the evidence was not strong enough to support the conviction and therefore the conviction must be quashed.

*Case referred to:-*

(1) *Johnson Tan Han Seng* v. *Public Prosecutor* [1977] 2 M.L.J. 66.

FEDERAL COURT.

*K. Chandran* for the appellant.

*Shaik Daud bin Haji Mohamed Ismail* (Deputy Public Prosecutor) for the respondent.

*Cur. Adv. Vult.*

**Ibrahim Manan F.J.** (delivering the judgment of the Court): The appellant was convicted in the High Court at Kuala Lumpur on two offences under section 57(1) of the Internal Security Act, 1960, one for having in his possession in a security area without lawful excuse certain firearms to wit, an unnumbered .38 Ilama Pistol, a short barrel Smith & Wesson .38 Revolver No. D. 888858 and an unnumbered .32 Chamber Revolver, the other in respect of certain ammunition to wit, 8 rounds of .32 ammunition, 33 rounds of .38 ammunition, 45 rounds of .22 ammunition and a primed handgrenade and sentenced to death.

The said firearms and ammunition were discovered at about 10.15 a.m. on July 30, 1976 in a locked drawer of a locked almirah at house No. 685 Kampong Tasek Permai Baru, Ampany, which belonged to the sister of the appellant. The appellant had earlier been arrested together with one Hong Chai at 12.30 a.m. on the same day in a house No. 20 Jalan Harvey, Sitiawan, Perak. In a room occupied by the appellant Inspector Nawawi also found 2 sets of keys on the floor beside a mattress. The main evidence on which the appellant was convicted was his oral statement made to Inspector Nawawi soon after his arrest that the keys which subsequently were used to open the almirah and drawer belonged to him.

Regulation 21(1) of the Essential (Security cases) (Amendment) Regulations, 1975 provides:

> "A statement made by the accused whether orally or in writing to any person shall be admissible in evidence notwithstanding that such statement —"

was made in circumstances or was of the nature specified in paragraphs (a) to (g) thereof.

This court in *Johnson Tan Han Seng* v. *Public Prosecutor*[1] has ruled that a statement made under the said regulation 21(1) was not admissible unless is was voluntarily made. Suffian L.P. in the course of his judgment in that case said:

> "Regulation 21 does not say that a statement to a police officer is admissible whether made voluntarily or not, and so the prosecution must still prove that it was voluntarily made if they wanted to rely on it..."

In a serious case like this, which involved the death sentence, the trial judge should have considered whether or not the statement was made voluntarily. As he had not done so the statement was not admissible in evidence.

The rest of the evidence was not enough to support the conviction and we therefore allowed the appeal and quashed the conviction and set aside the sentence.

*Appeal allowed.*

Solicitors: *K. Chandran.*